

(83) That the said contract in the declaration mentioned was made by the defendant jointly with one W. P., who is still living, and is residing in the county (or the city) aforesaid; and was not made by the defendant alone.

[This form shall be sufficient, whether the contract be by parol or by deed.]

This sub-section does not affect rule that where a debt is due to a partnership or to several individuals jointly, they must all join as plaintiffs; and if they fail to do so defendant may interpose objection to evidence (on the ground of a variance), under general issue. (See, however, sec. 42, *et seq.*) *Smith v. Crichton*, 33 Md. 107. And see *Kent v. Holliday*, 17 Md. 387.

Forms of affidavit to Pleas in Abatement.

(84) ——— county.

M. R. (the defendant in the cause), makes oath and says, that the plea, hereunto annexed, is true in substance and in fact.¹

Sworn before.

This sub-section referred to in holding an affidavit to plea in abatement under rule day act applicable to Baltimore city, insufficient. *Hyson v. General Supply Co.*, 117 Md. 234.

A plea in abatement may be struck out on motion if not sworn to. *Graham v. Fahnestock*, 5 Gill, 215; *Deheaulme v. Boisneuf*, 4 H. & McH. 413.

Form of Declaration when the summons is returned as to some of the Defendants non est.

(85) R. G., by S. T., his attorney (or in person), sues J. T. and M. B. (but M. B. has been returned *non est* by the sheriff), for (here state the cause of action), and the plaintiff claims from J. T. (the person summoned), \$———.

Commencements of Declarations by Persons Suing in Special Characters.

(86) A. B., executor of the last will (or administrator of the goods, &c.), of O. H., deceased, by S. T., his attorney, (or in person,) sues D. E. for (here state the cause of action).

(87) J. T., who is within age, by S. T., his next friend (or guardian), sues W. B. for (here state the cause of action).

(88) G. H., who was the husband of L. K., deceased, formerly L. B., who has survived his said wife, by S. T., his attorney, (or in person,) sues C. P. for (here state the cause of action).

(89) B. H. and F. W., surviving partners of T. K. and I. M. (trading under the name of B. H., F. W. & Co.), by S. T., their attorney (or in person), sue T. H., surviving partner of M. S. (trading under the name of T. H. and M. S.), for (here state the cause of action).

(The words "trading under the name of," etc., may be omitted, unless the name of the firm be contained in the contract sued on.)

¹ The affidavit should also contain the averment in form prescribed by any special law. Such as *e. g.*, "that the affiant verily believes that the defendant will be able to produce sufficient evidence to support the same, and that he is advised by counsel to file said plea under oath."